

**U.S. District Court
District of Columbia (Washington, DC)
CIVIL DOCKET FOR CASE #: 1:18-cv-00580-EGS**

CAUSE OF ACTION INSTITUTE v. FEDERAL TRADE
COMMISSION

Assigned to: Judge Emmet G. Sullivan
Cause: 05:552 Freedom of Information Act

Date Filed: 03/15/2018

Jury Demand: None

Nature of Suit: 895 Freedom of
Information Act

Jurisdiction: U.S. Government Defendant

Plaintiff

CAUSE OF ACTION INSTITUTE

represented by **Ryan Patrick Mulvey**
CAUSE OF ACTION INSTITUTE
1875 Eye Street, NW
Suite 800
Washington, DC 20006
(202) 499-4232
Fax: (202) 330-5842
Email: ryan.mulvey@causeofaction.org
ATTORNEY TO BE NOTICED

Eric R. Bolinder
CAUSE OF ACTION INSTITUTE
1875 Eye Street, NW
Suite 800
Washington, DC 20006
(202) 470-2396
Email: eric.bolinder@causeofaction.org
ATTORNEY TO BE NOTICED

V.

Defendant

FEDERAL TRADE COMMISSION

represented by **John Moustakas**
U.S. ATTORNEY'S OFFICE FOR THE
DISTRICT OF COLUMBIA
555 Fourth Street, NW
Washington, DC 20530
(202) 252-2518
Email: john.moustakas@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Melanie Dyani Hendry
U.S. ATTORNEY'S OFFICE FOR THE
DISTRICT OF COLUMBIA
555 Fourth Street, NW
Washington, DC 20530
(202) 252-2510
Fax: (202) 252-2599
Email: melanie.hendry2@usdoj.gov
TERMINATED: 08/07/2019

Date Filed	#	Docket Text
03/15/2018	<u>1</u>	COMPLAINT against FEDERAL TRADE COMMISSION (Filing fee \$ 400 receipt number 0090-5374738) filed by CAUSE OF ACTION INSTITUTE. (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Exhibit 3, # <u>4</u> Exhibit 4, # <u>5</u> Exhibit 5, # <u>6</u> Exhibit 6, # <u>7</u> Civil Cover Sheet, # <u>8</u> Summons FTC, # <u>9</u> Summons AG, # <u>10</u> Summons Clerk)(Bolinder, Eric) (Entered: 03/15/2018)

03/15/2018	<u>2</u>	Corporate Disclosure Statement by CAUSE OF ACTION INSTITUTE. (Bolinder, Eric) (Entered: 03/15/2018)
03/15/2018	<u>3</u>	NOTICE of Appearance by Ryan Patrick Mulvey on behalf of CAUSE OF ACTION INSTITUTE (Mulvey, Ryan) (Entered: 03/15/2018)
03/15/2018		Case Assigned to Judge Emmet G. Sullivan. (zsb) (Entered: 03/15/2018)
03/15/2018	<u>4</u>	SUMMONS (3) Issued Electronically as to FEDERAL TRADE COMMISSION, U.S. Attorney and U.S. Attorney General (Attachment: # <u>1</u> Notice and Consent)(zsb) (Entered: 03/15/2018)
03/16/2018	<u>5</u>	STANDING ORDER: The parties are directed to read the attached Standing Order Governing Civil Cases Before Judge Emmet G. Sullivan in its entirety upon receipt. The parties are hereby ORDERED to comply with the directives in the attached Standing Order. Signed by Judge Emmet G. Sullivan on 03/16/18. (Attachment: # <u>1</u> Exhibit 1) (mac) (Entered: 03/16/2018)
03/30/2018	<u>6</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed. FEDERAL TRADE COMMISSION served on 3/19/2018 (Bolinder, Eric) (Entered: 03/30/2018)
03/30/2018	<u>7</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed on United States Attorney General. Date of Service Upon United States Attorney General 3/20/2018. (Bolinder, Eric) (Entered: 03/30/2018)
04/02/2018	<u>8</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed as to the United States Attorney. Date of Service Upon United States Attorney on 4/2/2018. Answer due for ALL FEDERAL DEFENDANTS by 5/2/2018. (Bolinder, Eric) (Entered: 04/02/2018)
05/02/2018	<u>9</u>	ANSWER to Complaint by FEDERAL TRADE COMMISSION.(Hendry, Melanie) (Entered: 05/02/2018)
06/12/2018		MINUTE ORDER. Plaintiff brings this action pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. 552. The parties are directed to meet and confer and propose a joint scheduling order for further proceedings in this case by no later than July 12, 2018. The parties' joint proposed scheduling order shall address the following: (1) The status of plaintiff's FOIA request; (2) The anticipated number of documents responsive to plaintiff's FOIA request; (3) The anticipated date(s) for release of documents responsive to plaintiff's FOIA request; (4) Whether a motion for an Open America stay is likely in this case; (5) Whether a Vaughn index will be required in this case; (6) Whether this case would benefit from referral to a magistrate judge or the District Court Mediation Program for purposes of settlement; and (7) A proposed briefing schedule for dispositive motions, if applicable. If the parties are unable to agree on a joint recommendation, the joint proposed scheduling order shall include each party's individual recommendations. Signed by Judge Emmet G. Sullivan on 6/12/2018. (lcegs3) (Entered: 06/12/2018)
06/13/2018		Set/Reset Deadlines: Joint Scheduling Order due by 7/12/2018. (mac) (Entered: 06/13/2018)
07/12/2018	<u>10</u>	Joint STATUS REPORT <i>and Proposed Schedule</i> by FEDERAL TRADE COMMISSION. (Hendry, Melanie) (Entered: 07/12/2018)
07/16/2018		MINUTE ORDER in view of <u>10</u> joint status report, the defendant shall release responsive, non-exempt records every 30 days, with the first release by no later than August 13, 2018. The parties are directed to file another joint status report on August 30, 2018 to advise the Court on the parties' progress. Signed by Judge Emmet G. Sullivan on 7/16/2018. (lcegs3) (Entered: 07/16/2018)
07/16/2018		Set/Reset Deadlines: Joint Status Report due by 8/30/2018. (mac) (Entered: 07/16/2018)
08/30/2018	<u>11</u>	Joint STATUS REPORT by CAUSE OF ACTION INSTITUTE. (Bolinder, Eric) (Entered: 08/30/2018)
09/04/2018		MINUTE ORDER in view of <u>11</u> joint status report, the parties are directed to file another joint status report by no later than October 31, 2018 advising the Court of the

		parties' progress. Signed by Judge Emmet G. Sullivan on 9/4/2018. (lcegs3) (Entered: 09/04/2018)
09/04/2018		Set/Reset Deadlines: Joint Status Report due by 10/31/2018. (mac) (Entered: 09/04/2018)
10/31/2018	<u>12</u>	Joint STATUS REPORT by FEDERAL TRADE COMMISSION. (Hendry, Melanie) (Entered: 10/31/2018)
11/02/2018		MINUTE ORDER in view of <u>12</u> joint status report, the parties are directed to file another joint status report by no later than November 14, 2018. The government shall include the number of remaining documents to be processed and the anticipated date of completed production of all non-exempt responsive records. Signed by Judge Emmet G. Sullivan on 11/2/2018. (lcegs3) (Entered: 11/02/2018)
11/02/2018		Set/Reset Deadlines: Joint Status Report due by 11/14/2018. (mac) (Entered: 11/02/2018)
11/14/2018	<u>13</u>	Joint STATUS REPORT by CAUSE OF ACTION INSTITUTE. (Bolinder, Eric) (Entered: 11/14/2018)
11/15/2018		MINUTE ORDER. The Court has considered the parties' positions, as set forth in <u>13</u> joint status report. The Court hereby orders the defendant to finalize production and release all non-exempt responsive records by no later than February 15, 2019. The parties are directed to file a joint status report by no later than February 22, 2019 recommending next steps for further proceedings. Signed by Judge Emmet G. Sullivan on 11/15/2018. (lcegs3) (Entered: 11/15/2018)
11/16/2018		Set/Reset Deadlines: Joint Status Report due by 2/22/2019. (mac) (Entered: 11/16/2018)
02/22/2019	<u>14</u>	Joint STATUS REPORT by FEDERAL TRADE COMMISSION. (Hendry, Melanie) (Entered: 02/22/2019)
02/22/2019		MINUTE ORDER. In view of the <u>14</u> Joint Status Report, the parties shall meet and confer, and file a joint proposed summary judgment briefing schedule by no later than March 8, 2019. The Court declines to adopt Plaintiff's proposal for a status conference substantially for the reasons set forth in Defendant's proposal. Signed by Judge Emmet G. Sullivan on 2/22/2019. (lcegs3) (Entered: 02/22/2019)
02/25/2019		Set/Reset Deadlines: Joint Proposed Summary Judgment Briefing Schedule due by 3/8/2019. (mac) (Entered: 02/25/2019)
03/06/2019	<u>15</u>	PROPOSED BRIEFING SCHEDULE (<i>Joint</i>) by FEDERAL TRADE COMMISSION. (Hudak, Brian) (Entered: 03/06/2019)
03/08/2019		MINUTE ORDER. In view of the <u>15</u> Joint Proposed Briefing Schedule, the parties shall adhere to the following briefing schedule: (1) Defendant shall file its motion for summary judgment by no later than April 19, 2019; (2) Plaintiff shall file its opposition and cross-motion for summary judgment by no later than May 20, 2019; (3) Defendant shall file its opposition to Plaintiff's cross-motion for summary judgment and reply in support of its motion for summary judgment by no later than June 20, 2019; and (4) Plaintiff shall file its reply in support of its cross-motion for summary judgment by no later than July 15, 2019. Signed by Judge Emmet G. Sullivan on 3/8/2019. (lcegs3) (Entered: 03/08/2019)
03/08/2019		Set/Reset Deadlines: Defendant Motion For Summary Judgment due by 4/19/2019. Plaintiff Opposition And Cross-Motion For Summary Judgment due by 5/20/2019. Defendant Opposition To Plaintiff's Cross-Motion For Summary Judgment And Reply In Support Of Its Motion For Summary Judgment due by 6/20/2019. Plaintiff Reply In Support Of Its Cross-Motion For Summary Judgment due by 7/15/2019. (mac) (Entered: 03/08/2019)
04/18/2019	<u>16</u>	Consent MOTION for Extension of Time to File <i>Summary Judgment Motion</i> by FEDERAL TRADE COMMISSION (Hendry, Melanie) (Entered: 04/18/2019)
04/24/2019		MINUTE ORDER granting <u>16</u> Defendant's Consent Motion for Extension of Time to File Summary Judgment Motion. The parties shall adhere to the following modified briefing schedule: (1) Defendant shall file its motion for summary judgment by no

		later than May 17, 2019; (2) Plaintiff shall file its opposition and cross-motion for summary judgment by no later than June 20, 2019; (3) Defendant shall file its opposition to Plaintiff's cross-motion for summary judgment and reply in support of its motion for summary judgment by no later than July 22, 2019; and (4) Plaintiff shall file its reply in support of its cross-motion for summary judgment by no later than August 12, 2019. Signed by Judge Emmet G. Sullivan on 4/24/2019. (lcegs3) (Entered: 04/24/2019)
04/24/2019		Set/Reset Deadlines: Defendant Motion For Summary Judgment due by 5/17/2019. Plaintiff Opposition And Cross-Motion For Summary Judgment due by 6/20/2019. Defendant Opposition To Plaintiff's Cross-Motion For Summary Judgment And Reply In Support Of Its Motion For Summary Judgment due by 7/22/2019. Plaintiff Reply In Support Of Its Cross-Motion For Summary Judgment due by 8/12/2019. (mac) (Entered: 04/24/2019)
05/16/2019	<u>17</u>	MOTION for Extension of Time to File <i>Summary Judgment Motion</i> by FEDERAL TRADE COMMISSION (Hendry, Melanie) (Entered: 05/16/2019)
05/17/2019	<u>18</u>	Memorandum in opposition to re <u>17</u> MOTION for Extension of Time to File <i>Summary Judgment Motion</i> filed by CAUSE OF ACTION INSTITUTE. (Attachments: # <u>1</u> Text of Proposed Order)(Mulvey, Ryan) (Entered: 05/17/2019)
05/17/2019		MINUTE ORDER granting over objection <u>17</u> Defendant's Motion for Extension of Time. Any future requests for extensions of time based on workload will be viewed with disfavor. See Minute Order, <i>Matta v. O'Neill</i> , No. 02-cv-862 (D.D.C. Mar. 2, 2005) (granting a party's motion for an extension of time; ordering no further extensions based on workload). The parties shall adhere to the following modified briefing schedule: (1) Defendant shall file its motion for summary judgment by no later than June 21, 2019; (2) Plaintiff shall file its opposition and cross-motion for summary judgment by no later than July 22, 2019; (3) Defendant shall file its opposition to Plaintiff's cross-motion for summary judgment and reply in support of its motion for summary judgment by no later than August 22, 2019; and (4) Plaintiff shall file its reply in support of its cross-motion for summary judgment by no later than September 12, 2019. Signed by Judge Emmet G. Sullivan on 5/17/2019. (lcegs3) (Entered: 05/17/2019)
05/20/2019		Set/Reset Deadlines: Defendant Motion For Summary Judgment due by 6/21/2019. Plaintiff Opposition And Cross-Motion For Summary Judgment due by 7/22/2019. Defendant Opposition To Plaintiff's Cross-Motion For Summary Judgment And Reply In Support Of Its Motion For Summary Judgment due by 8/22/2019. Plaintiff Reply In Support Of Its Cross-Motion For Summary Judgment due by 9/12/2019. (mac) (Entered: 05/20/2019)
06/21/2019	<u>19</u>	MOTION for Summary Judgment by FEDERAL TRADE COMMISSION (Attachments: # <u>1</u> Declaration of Dione Jackson Stearns, # <u>2</u> Statement of Facts)(Hendry, Melanie) (Entered: 06/21/2019)
07/17/2019	<u>20</u>	Consent MOTION for Extension of Time to <i>File Opposition and Motion for Summary Judgment</i> by CAUSE OF ACTION INSTITUTE (Attachments: # <u>1</u> Text of Proposed Order)(Bolinder, Eric) (Entered: 07/17/2019)
07/18/2019		MINUTE ORDER. In light of <u>20</u> Plaintiff's Consent Motion for Extension of Time to File Opposition and Motion for Summary Judgment, the Court holds in abeyance <u>19</u> Defendant's Motion for Summary Judgment and stays further briefing on Defendant's motion for summary judgment in order for the parties to engage in settlement discussions. See <i>Furniture Brands Int'l Inc. v. U.S. Int'l Trade Comm'n</i> , No. 11-202, 2011 WL 10959877, at *1 (D.D.C. Apr. 8, 2011) ("[St]aying further briefing of the plaintiff's summary judgment motion will allow the parties to avoid the unnecessary expense, the undue burden, and the expenditure of time to brief a motion that the Court may not decide."). The Court finds as moot Plaintiff's request for an extension of time. The parties are directed to submit a joint status report by no later than August 22, 2019, updating the Court as to whether further litigation will be necessary and proposing a briefing schedule, if appropriate. Signed by Judge Emmet G. Sullivan on 7/18/2019. (lcegs3) (Entered: 07/18/2019)
07/18/2019		Set/Reset Deadlines: Joint Status Report due by 8/22/2019. (mac) (Entered: 07/18/2019)

08/07/2019	<u>21</u>	NOTICE OF SUBSTITUTION OF COUNSEL by John Moustakas on behalf of FEDERAL TRADE COMMISSION Substituting for attorney Melanie Hendry (Moustakas, John) (Entered: 08/07/2019)
08/22/2019	<u>22</u>	Joint STATUS REPORT by CAUSE OF ACTION INSTITUTE. (Bolinder, Eric) (Entered: 08/22/2019)
08/28/2019		MINUTE ORDER. In view of the <u>22</u> Joint Status Report, the parties are directed to submit a joint status report by no later than September 30, 2019, updating the Court as to whether further litigation will be necessary and, if appropriate, proposing a briefing schedule. The briefing on Defendant's motion for summary judgment shall remain stayed as the parties evaluate Defendant's supplemental disclosure of records and engage in settlement discussions. Signed by Judge Emmet G. Sullivan on 8/28/2019. (lcegs3) (Entered: 08/28/2019)
08/29/2019		Set/Reset Deadlines: Joint Status Report due by 9/30/2019. (mac) (Entered: 08/29/2019)